

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b>		EFFECTIVE DATE 01/02/2003	NUMBER 04.04.110
SUBJECT SEARCH AND ARREST IN CORRECTIONAL FACILITIES		SUPERSEDES 04.04.110 (01/08/96), DOM 2002-3; DOM 2002-7	
		AUTHORITY MCL 19.141 et seq., 333.21527, 764.16, 764.25a, et seq., 791.204, 800.281 et seq. Administrative Rules 791.2210, 791.6611	
		ACA STANDARDS 3-4184 through 3-4186, 3-4269, 2-CO-3C-01, 3- ACRS-3A-13, 3-ACRS-4E-09	
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#### **POLICY STATEMENT:**

To ensure the security of and safety within correctional facilities, prisoners and their living space will be subject to search on a regular basis. In addition, employees and others who enter a correctional facility may be subject to search. Searches will be conducted in a professional manner and within the confines of this policy.

#### **RELATED POLICY:**

04.01.110 Access to Department Facilities

#### **POLICY:**

#### DEFINITIONS

- A. Body Cavity: The interior of the human body not visible by normal observation, such as the rectal cavity and the vagina.
- B. Contraband: Property which is not allowed on facility grounds by State law, Administrative Rule or Department policy or procedure. For prisoners, this includes personal property identified as contraband pursuant to PD 04.07.112 "Prisoner Personal Property".
- C. Controlled Substance: A drug, substance, or immediate precursor as set forth in MCL 333.7201 to 333.7231, including heroin, cocaine, LSD and marijuana.
- D. Employees: Department of Corrections, Department of Community Health, Department of Information Technology, and contractual employees providing services in a correctional facility, except as otherwise indicated.
- E. Members of the Public: Visitors, volunteers, attorneys, contractors, elected state officials and anyone else who is not a Department employee, staff from the Office of Legislative Corrections Ombudsman or a prisoner, unless otherwise stated.
- F. Reasonable Suspicion: Suspicion based on a specific fact or facts and rational inferences drawn from those facts, based upon the knowledge and experience of corrections staff. Examples of information on which a reasonable suspicion may be based include, but are not limited to, the following:
  - 1. Information which is from an identified source who is reasonably reliable and credible;
  - 2. An anonymous tip which is corroborated by some other evidence;
  - 3. Discovery of a suspicious item during a search;
  - 4. Observation of unusual behavior such as appearing to conceal an item in clothing.

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G. Searches:

1. Patdown Search: A brief manual and visual inspection of body surfaces, clothing, briefcases and similar items. The only clothing items that may be required to be removed are outerwear (e.g., coats, jackets, hats) and shoes. All items shall be removed from pockets.
2. Clothed Body Search: A thorough manual and visual inspection of all body surfaces, hair, clothing, wigs, briefcases, prostheses and similar items and visual inspection of the mouth, ears and nasal cavity. The only clothing items that may be required to be removed are outerwear (e.g., coats, jackets, hats), shoes and socks; however, all items shall be removed from pockets.
3. Strip Search: Visual inspection of all body surfaces of a person who has been required to remove all or most of his/her clothing and jewelry for purposes of the search; includes visual inspection of the mouth, ears, nasal cavities, and the entrance to the vagina and rectal cavity. The person will be required to bend and spread his/her buttocks, and spread the lips of her vagina, to allow inspection. All clothing and articles which are removed also shall be inspected for contraband.
4. Body Cavity Search: Search which involves physical intrusion into a body cavity by the person conducting the search.

GENERAL INFORMATION

- H. For purposes of this policy, "Warden" includes the Administrator of the Special Alternative Incarceration Program facility (SAI) and each Manager of a Technical Rule Violation Center (TRV) or corrections center, except as otherwise indicated.
- I. This policy primarily addresses searches of prisoners, employees and members of the public entering or in a correctional facility since that is where most searches occur. However, any search conducted by Department staff shall be done in accordance with the requirements of this policy.
- J. The Department's responsibility to manage and control the State's correctional facilities includes the duty to prevent contraband from entering those facilities. Pursuant to MCL 800.281 et seq., it is a felony to bring any of the following items into a correctional facility or onto facility property where prisoners may have access to them without written permission of the Warden:
1. Any weapon, including a pocket knife, or other implement which may be used to injure another person or which may be used in aiding a prisoner to escape.
  2. Any alcoholic beverage or poison, except that not more than two ounces of wine may be brought into a facility for use by a clergy member for religious purposes.
  3. Any prescription drug or controlled substance without written certification of need from a licensed physician, except that prescription drugs and controlled substances may be brought into a correctional facility as medical supplies for that facility. The physician's written certification must include the name of the person prescribed the drug or controlled substance, the prescribed dosage and frequency, and the reason it was prescribed.
- K. In addition to those items prohibited by State law, Department policy prohibits other items from being brought into a correctional facility. Personal cellular telephones and pagers, except as set forth in PD 04.04.100 "Custody, Security and Safety Systems" or PD 06.01.115 "Custody, Security and Safety Systems - Corrections Centers and Technical Rule Violation Centers", are prohibited. In addition, audio or visual recording devices, including cameras, are prohibited unless approved by the Warden or, for news media representatives, approved in accordance with PD 04.01.110 "Access to Department

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Facilities". Visitors are prohibited from bringing money into a correctional facility, except where allowed for use of vending machines. Wardens may prohibit other items from being brought into their respective facilities; however, items may not be prohibited that are otherwise specifically allowed pursuant to Department policy.

- L. The following types of searches shall be used by Department staff to detect contraband within a facility or attempting to be brought into a facility:
  - 1. Screening devices such as a hand-held or walk-through metal detector. Screening devices are required at all Correctional Facilities Administration (CFA) facilities. The Field Operations Administration (FOA) Deputy Director shall determine at which FOA facilities such devices shall be required.
  - 2. Patdown searches.
  - 3. Clothed body searches.
  - 4. Strip searches.
  - 5. Body cavity searches.
  - 6. Obtaining body fluids or other sample for alcohol and controlled substance testing in accordance with PD 03.03.115 "Substance Abuse Programming and Testing".
  - 7. Use of dogs which have been trained to detect controlled substances.
  - 8. Search of a room, bunk area, cell, vehicle or other personal property.
- M. If a prisoner flees when an employee notifies him/her of a search, the employee shall make every effort to identify the prisoner and charge him/her with the appropriate disciplinary violation. However, an employee ordinarily should not pursue a fleeing prisoner under circumstances which might endanger the employee or arouse other prisoners. A prisoner may be forced to submit to a search, subject to the requirements contained in PD 04.05.110 "Use of Force".

## SEARCH OF PRISONERS

### Patdown, Clothed Body and Cell/Room Searches

- N. Department employees have authority to conduct a patdown or clothed body search of a prisoner at any time. For male prisoners, these searches need not be conducted by a staff member of the same sex as the prisoner being searched. Pat down and clothed body searches of female prisoners shall be conducted only by female staff except when female staff are not readily available to conduct a search in an emergency or where there is a reasonable suspicion that the prisoner is in possession of contraband, or, in SAI, when there are no female housing or custody staff working the shift on which the search is being conducted. Staff shall determine whether a patdown or clothed body search is more appropriate in each situation, depending on the circumstances necessitating the search. A patdown search is designed to detect larger items and is appropriate for screening prisoners for contraband when they are entering or leaving a group area, such as the dining area or auditorium.
- O. As part of a patdown or clothed body search, a prisoner is required to remove all items from his/her pockets. If the prisoner refuses to do so, or there is a reasonable suspicion that contraband is present, the staff member may remove the items. A prisoner who refuses to comply with a direct order to remove the items may be issued a major misconduct for disobeying a direct order.
- P. In CFA, each non-housing unit corrections officer and corrections medical aide who has direct prisoner contact shall conduct patdown or clothed body searches of at least five randomly selected prisoners per

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shift. Both housing unit and non-housing unit staff may be required to conduct additional searches at the discretion of the Warden. Such searches shall be recorded on the Daily Prisoner Shakedown Report (CSJ-468) and in the appropriate logbook. In FOA, similar searches shall be conducted and documented in accordance with procedures issued by the FOA Deputy Director or designee.

- Q. A prisoner's possessions, living area and work area are subject to search at any time, with or without suspicion that contraband is present. However, a search shall not be conducted for the purpose of harassing or humiliating a prisoner. Staff members conducting a search in a prisoner's living or work area shall use reasonable care in conducting the search to protect and safeguard the prisoner's property and shall attempt to leave searched areas in a similar condition to what they were prior to the search. The search need not be conducted in the prisoner's presence.
- R. In CFA, each housing unit officer shall conduct searches of at least three randomly selected cells/rooms/living areas per shift, except the night shift. Additional searches may be required at the discretion of the Warden. Such searches shall be recorded in the appropriate logbook. Recorded information shall include the date and time of the search, the area searched and the name(s) of the employee(s) conducting the search. In FOA, similar searches shall be conducted and documented in accordance with procedures issued by the FOA Deputy Director or designee.

#### Strip Search

- S. A prisoner may be subjected to a strip search whenever it is determined by staff that such a search is necessary. If the prisoner resists, s/he may be forced to submit to the search subject to PD 04.05.110 "Use of Force". In CFA, all prisoners shall be subject to a strip search upon return from an off-site detail (e.g., writ; hospital) and after each contact visit. A strip search shall not be required following a non-contact visit unless there is reasonable suspicion that the prisoner is concealing contraband.
- T. A strip search shall be performed by and only in the presence of employees of the same sex as the prisoner being searched, except in the following situations:
  - 1. An emergency;
  - 2. When a prisoner is being transported to a destination outside the facility and none of the transportation staff are of the same sex as the prisoner; or
  - 3. If the staff member is a supervisory employee whose presence is required by policy.
- U. A strip search shall be conducted in a place which prevents the search from being observed by those not assisting in that search, unless an emergency requires that it be conducted immediately and there is no opportunity to move to a sheltered area. If a strip search is videotaped, the videotape shall be immediately locked in a secure area outside the security perimeter of the facility. Only the Warden may authorize release or viewing of the videotape.
- V. A written report identifying the employees involved in a strip search, the reason for the search and, if performed by or in the presence of an employee of the opposite sex as the prisoner being searched, the reason it was performed by that employee shall be submitted to the Warden by the end of the shift after which the search occurred, except for the following routine strip searches if they were not performed by or in the presence of an employee of the opposite sex:
  - 1. Upon admission to a segregation housing unit;
  - 2. Prior to departure from or upon arrival at a facility on an inter-institutional transfer;
  - 3. Prior to departure from or upon return to a facility from an off-site detail or an assignment which requires strip search, e.g., Michigan State Industries (MSI);
  - 4. When a CFA prisoner housed in one level of custody enters a higher custody level area of the

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institution for any reason;

5. When a prisoner is required to remove clothing as part of the procedure for taking a urine sample for controlled substance testing;
6. Following a contact visit.

#### Body Cavity Search

- W. If there is a reasonable suspicion that a prisoner is concealing contraband within a body cavity, the prisoner may be held in isolation in accordance with Paragraph Y and/or forced to submit to a body cavity search. All of the following conditions must be met if a prisoner is subjected to a body cavity search:
1. Prior to the search, written authorization shall be obtained from the Warden. The Warden may authorize such a search only when there is reasonable suspicion that the prisoner is attempting to carry contraband within a body cavity. The Warden also shall determine if an approved body cavity search will be videotaped.
  2. MCL 764.25b requires the search to be conducted by a licensed physician or a physician's assistant, licensed practical nurse or registered nurse acting with the approval of a licensed physician. Therefore, only staff employed by or under contract with the Bureau of Health Care Services (BHCS) shall conduct such searches.
  3. Medical personnel who perform a body cavity search need not be of the same sex as the prisoner being searched. However, all other persons who are present during the search shall be of the same sex as the prisoner, and there always shall be at least one staff member present who is the same sex as the prisoner being searched.
  4. The search shall be conducted in a place which prevents it from being observed by a person not conducting or necessary to assist with the search. If a body cavity search is videotaped, the videotape shall be immediately locked in a secure area outside of the security perimeter of the facility. Only the Warden may authorize release or viewing of the videotape.
  5. A written report of the search shall be completed as soon as possible but not later than the end of the shift after which the search occurred, using the Strip Search/Body Cavity Search Report (CAJ-289). The original of that report shall be sent to the Warden. A copy shall be given to the prisoner, with any information that would pose a threat to the custody and security of the facility deleted.
- X. In accordance with MCL 333.21527, a person suspected of being the victim of a sexual assault shall not be required to submit to collection of evidence of such an assault if intrusion into a body cavity is required unless the person has given his/her consent. This provision also applies to a prisoner who is a suspected victim of a sexual assault.

#### Isolation of Prisoners to Retrieve Contraband

- Y. Whenever a prisoner is suspected of swallowing an item of contraband or concealing contraband in his/her rectal cavity, the Warden or Deputy Warden (after consultation with licensed BHCS health care staff) may order the prisoner to be held in isolation. The prisoner may remain in isolation for a reasonable period of time, as determined by licensed BHCS medical staff, to determine whether the contraband is excreted.

#### SEARCH OF EMPLOYEES

- Z. Staff from the Office of Legislative Corrections Ombudsman entering a facility pursuant to PD 03.02.135

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"Office of the Legislative Corrections Ombudsman" shall be subject to search in the same manner as an employee.

- AA. The responsibility to manage and control correctional facilities and prevent introduction of contraband encompasses the authority to search employees and their property while on the grounds of any facility. Whenever it is necessary to search an employee, reasonable attempts shall be made to have the employee voluntarily agree to be searched. If an employee refuses to submit to a search, s/he will not be forced to submit unless a search warrant has been obtained but entry into the secured area of the facility on that occasion shall be denied. A Department employee shall be warned that such refusal constitutes grounds for disciplinary action up to and including dismissal and that s/he may be refused entry into the facility until disciplinary action has been completed in accordance with PD 02.03.100 "Employee Discipline".

Use of Screening Devices; Patdown and Clothed Body Searches; Search of Property

- BB. All employees shall submit to the use of a hand held screening device or a walk through device, as required by the Warden.
- CC. In CFA institutions, TRVs and SAI, employees also shall submit to patdown or clothed body searches as a part of a general periodic search of all employees or randomly selected employees, as determined by the Warden, entering the facility during a certain time period. The Warden or designee shall determine the frequency of such searches and whether a patdown or clothed body search will be used. All employees searched shall be subject to the same type of search. Patdown and clothed body searches shall be conducted by an employee of the same sex as the employee being searched. If a random selection of employees is chosen to be searched, the Warden shall ensure the method used to select the employees is truly random.
- DD. In corrections centers, the FOA Deputy Director shall determine whether employees shall be required to submit to patdown or clothed body searches similar to those required in Paragraph CC. If required, the FOA Deputy Director also shall determine the frequency of such searches and whether a patdown or clothed body search will be used. The searches shall be conducted consistent with the requirements set forth in Paragraph CC.
- EE. In addition to the searches identified in Paragraphs BB through DD, an individual employee may be specifically singled out and requested to submit to a clothed body search if there is reasonable suspicion that the employee is attempting to conceal evidence of a crime or carry contraband onto facility property or into or out of the facility. Such searches may be carried out only upon authorization of the Duty Administrative Officer or, in a corrections center or TRV, upon authorization of the appropriate Area Manager. The search shall be conducted by an employee of the same sex as the employee being searched. If an employee of the same sex as the person being searched is not readily available to conduct the search, the search may be conducted by an employee of the opposite sex with approval of the supervisor who authorized the search. In all such cases, the supervisor approving the search shall submit a written report identifying the employees involved, the reason for the search and why it was conducted by an employee of the opposite sex. The report shall be submitted through the appropriate chain of command to the Warden not later than the end of the shift after which the search occurred.
- FF. A search of an employee's vehicle or personal property may be conducted only if there is a reasonable suspicion that the employee is attempting to conceal contraband and only upon authorization of an employee with the rank of shift commander or above. The search shall be conducted in the presence of the employee or his/her designated representative. However, any vehicle or other personal property which is taken inside the security perimeter of a correctional facility, including gun towers, shall be subject to search. In such cases, the employee's consent is not required, reasonable suspicion is not necessary and the employee or his/her representative does not need to be present to conduct a search.

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### Strip Search

- GG. An employee shall not be forced to submit to a strip search unless a search warrant has been obtained. However, an employee who refuses to submit to a strip search may be subject to discipline and refused entry into the facility as stated in Paragraph AA.
- HH. All strip searches of employees shall be subject to the following conditions:
1. There shall be reasonable suspicion that the employee is concealing contraband or evidence of a crime.
  2. Prior written authorization shall be obtained from the Warden.
  3. The search shall be conducted by a person of the same sex as the person being searched. All other persons present also shall be of the same sex as the person being searched.
  4. The search shall be conducted in a place which prevents it from being observed by anyone not conducting or assisting in the search. The search shall not be videotaped unless authorized by the Warden. If it is videotaped, the tape shall be immediately locked in a secure area outside the security perimeter of the facility. Only the Warden may authorize release of the videotape.
  5. A written report of the search shall be prepared as soon as possible but not later than the end of the shift after which the search occurred, using the Strip Search/Body Cavity Search Report (CAJ-289). The original of the report shall be sent to the Warden, and a copy given to the employee who was searched subject to deletions permitted by the Freedom of Information Act.

### Body Cavity Search

- II. Consistent with MCL 764.25b, a body cavity search of an employee shall not be conducted without a valid search warrant. If the Warden believes that such a search is required, s/he shall contact the appropriate law enforcement agency and ask them to proceed.

### SEARCH OF MEMBERS OF THE PUBLIC

- JJ. Members of the public entering a correctional facility are subject to search in order to prevent the introduction of contraband. If a member of the public refuses to be searched, s/he will not be forced to submit unless a search warrant has been obtained, but entry into the secured area of the facility on that occasion shall be denied and s/he may be required to leave the premises. A person subject to a clothed body search who is wearing clothing which prevents a thorough clothed body search also shall be denied entry and may be required to leave the premises.
- KK. All members of the public shall be required to walk through a screening device or submit to the use of a hand-held screening device prior to entering a CFA institution; however, this requirement may be waived by the Warden for anyone personally escorted by the Warden or his/her designee.
- LL. Members of the public also shall be subject to a patdown or clothed body search, as determined by the Warden, except that elected state officials, law enforcement personnel and anyone who is personally escorted by the Warden or designee shall not be subject to a patdown or clothed body search unless specifically required by the Warden. Wardens shall ensure that attorneys and judges entering their respective facilities who are searched receive the same type of search (i.e., either a patdown or clothed body search). A clothed body search shall be required under all circumstances to visit a prisoner. If the visitor is wearing a prosthesis, brace, cast or similar item which cannot be removed for search, the visit shall be non-contact, in accordance with PD 05.03.140 "Prisoner Visiting".
- MM. All clothed body searches shall be conducted by an employee of the same sex as the person being searched. If an employee of the same sex is not readily available and the person does not wish to wait,

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s/he may sign a Clothed Body Search of Visitor - Waiver (CAJ-290) allowing the search to be done by a member of the opposite sex.

- NN. In CFA, a visitor who brings in a baby as a visitor shall be required to change the baby's diaper, using a disposable diaper supplied by the institution, in the presence of a staff person prior to the visit. The institution shall dispose of the diaper which was removed. Wardens shall ensure that disposable diapers are on hand for use by visitors as needed and shall ensure that visitors are advised that cloth diapers are not allowed. To allow easy viewing of the contents, only clear, non-glass baby bottles shall be allowed on a visit.
- OO. Members of the public entering a corrections center, TRV or SAI shall be subject to search as determined by the FOA Deputy Director. If clothed body searches are required, they shall be conducted consistent with the requirements set forth in Paragraphs JJ through MM.
- PP. Items left in a locker or other secured area designated by the Warden outside the security perimeter shall not be searched unless a search warrant has been obtained. Any personal property which is taken inside the security perimeter of a CFA institution shall be searched. Reasonable suspicion that contraband is present or consent of the visitor is not required. The FOA Deputy Director shall determine whether such searches shall be conducted at corrections centers, TRVs and SAI.

#### Strip Search

- QQ. Members of the public entering a facility shall not be forced to submit to a strip search unless a search warrant has been obtained. A strip search shall not be requested unless all of the requirements set forth in Paragraph HH are met. Persons who voluntarily submit to a strip search must sign a Consent to Strip Search form (CAJ-256) before that search is undertaken. Refusal to submit to a strip search shall constitute grounds for refusal to allow the person to visit or enter the facility on that occasion and the person shall be required to leave the premises.

#### Body Cavity Search

- RR. A body cavity search of a member of the public entering a facility shall be subject to the same conditions as a body cavity search of an employee as outlined in Paragraph II.

#### Search of Vehicles

- SS. If it is suspected that there is contraband in a vehicle on facility grounds that does not belong to an employee, the matter shall be referred to the appropriate law enforcement agency. Employees shall not search the vehicle.
- TT. If a vehicle is discovered in an area of the facility grounds which has been posted against trespassing, the vehicle and its occupants may be detained while the appropriate law enforcement agency is summoned. However, only reasonable non-deadly force shall be used unless the person detained attempts to use deadly force, as outlined in PD 04.05.110 "Use of Force".

#### FACILITY SEARCHES FOR CONTROLLED SUBSTANCES

- UU. Michigan State Police (MSP) dogs trained to detect controlled substances may be used for the purposes of detecting controlled substances within or on the grounds of Department facilities as determined by the CFA or FOA Deputy Director, as appropriate, or designee. The dogs also may be used in or on the grounds of Department facilities for training purposes with approval of the appropriate Warden. MSP shall be responsible for selecting dog handlers. Whenever a search is approved, the appropriate Warden and CFA Regional Prison Administrator, FOA Regional Administrator or, for SAI, the FOA Deputy Director or designee shall be notified when and where the search will be conducted; advance warning shall not be provided to any other facility/institutional staff or to offenders.



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- VV. The Manager of the Internal Affairs Division of the Office of Audit, Internal Affairs and Litigation, or designee, shall be responsible for coordinating searches by dogs with MSP. However, the Warden is responsible for coordinating tactical planning with MSP, which shall include the following:
1. Ensuring search teams are brought into the facility as soon as possible after arrival.
  2. Determining target areas to be searched.
  3. Ensuring sufficient staff are available to safely and effectively conduct the search. If an MSP detective accompanies the search team, s/he shall be in charge of MSP staff on site.
  4. At the end of each search, facility staff shall meet with MSP staff to critique the search. If problems arise that cannot be resolved through this process, the Warden and the Manager of Internal Affairs shall coordinate corrective action.
- WW. After a search is conducted in his/her facility or on the facility grounds by a drug dog team, the Warden shall provide a written report to the Regional Prison Administrator, FOA Regional Administrator or, in SAI, the FOA Deputy Director, as appropriate, with a copy to the Manager of the Internal Affairs Division, detailing the search. Each report shall include a complete description of any controlled substance found during the search.

#### AUTHORITY TO DETAIN/ARREST EMPLOYEES AND MEMBERS OF THE PUBLIC

- XX. Whenever the Warden or designee determines there is reasonable suspicion that a person will attempt to bring any of the items identified in Paragraph J onto facility grounds or into a correctional facility, the Warden or designee may request the appropriate law enforcement agency to be present for questioning or search of the person.
- YY. The appropriate law enforcement agency shall be called whenever a person is found to be in possession of a non-authorized alcoholic beverage, poisonous substance, controlled substance, prescription drug or weapon. The person should be detained if possible, using whatever non-deadly force is necessary, awaiting the arrival of the appropriate law enforcement agency. The contraband should be taken from the individual if possible, using non-deadly force if necessary, in accordance with PD 04.05.110 "Use of Force". However, if a reasonable suspicion exists that the person has a weapon or other implement which may be used to injure another person and the circumstances change to that of self defense, the force reasonably necessary to disarm the person and defend one's self may be used. If law enforcement chooses not to appear, the person shall be required to leave the premises. The contraband shall be disposed of as set forth in Paragraphs BBB through EEE.
- ZZ. Although Department employees are not law enforcement officials, they have the same authority as other civilians to make arrests under the following conditions:
1. For a felony committed in their presence;
  2. When the person is known to have committed a felony, though not in the employee's presence;
  3. When requested by a law enforcement officer to assist the officer in making an arrest.
- AAA. Only non-deadly force may be used to detain a person unless the individual being held attempts to use deadly force.

#### DISPOSITION OF CONTRABAND

- BBB. Department staff shall not destroy a suspected controlled substance which has been confiscated from anyone, including a prisoner. All suspected controlled substances which are confiscated shall be turned over to the MSP. The Manager of Internal Affairs shall be contacted if MSP refuses to take the

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controlled substances.

#### Employees

- CCC. Contraband found in the search of a contractual employee shall be handled in the same manner as for members of the public. All contraband found in the search of any other employee, or of his/her vehicle or personal property, shall be retained as evidence, whether or not law enforcement chooses to appear, as it must be held for use in the employee disciplinary process. If no criminal charges are brought, the item shall be returned to the employee upon completion of the disciplinary process, with the exception of controlled substances which shall be turned over to MSP.

#### Members of the Public

- DDD. Whenever a law enforcement agency has been contacted and chooses not to appear and/or arrest a person in possession of contraband or law enforcement was not required to be contacted, the contraband, unless it is a controlled substance or weapon, shall be returned to its owner and the person allowed to leave. Controlled substances and weapons shall be retained and turned over to MSP.
- EEE. Anyone found on facility grounds taking unauthorized pictures of a correctional facility shall have the film or tape confiscated. In the case of a digital recording device, the memory card also shall be erased. The camera or recording device shall be immediately returned to the owner. All other items prohibited pursuant to Paragraph K may be retained if necessary as evidence for an administrative hearing, but must be returned as soon as possible. If possible, a photograph should be taken of the item as evidence and the item returned immediately.

#### OPERATING PROCEDURES

- FFF. Wardens, the FOA Deputy Director and the Administrator of the Office of Audit, Internal Affairs and Litigation shall ensure that procedures are developed as necessary to implement requirements set forth in this policy directive; this shall be completed within 60 calendar days after the effective date of the policy directive. This includes ensuring their existing procedures are revised or rescinded, as appropriate, if they are inconsistent with policy requirements or no longer needed.

#### AUDIT ELEMENTS

- GGG. A Primary Audit Elements List has been developed and will be provided to Wardens, FOA Regional Administrators and the SAI Administrator to assist with self audit of this policy, pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

WSO:OPH:01/02/03